

SO ORDERED.



TIFFANY & BOSCO
P.A.

Dated: November 25, 2009

**2525 EAST CAMELBACK ROAD
SUITE 300**

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CHARLES G. CASE, II
U.S. Bankruptcy Judge

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09-25404/0040812463

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF ARIZONA**

IN RE:

Neil Wayne Belonsky and Jacqueline Jane
Belonsky
Debtors.

Bank of America, NA
Movant,
vs.

Neil Wayne Belonsky and Jacqueline Jane
Belonsky, Debtors, Edward J. Maney, Trustee.

Respondents.

No. 2:09-bk-22196-CGC

Chapter 13

ORDER

(Related to Docket #13)

Movant's Motion for Relief from the Automatic Stay and Notice along with the form of proposed Order Lifting Stay, having been duly served upon Respondents, Respondents' counsel and Trustee, if any, and no objection having been received, and good cause appearing therefore,

IT IS HEREBY ORDERED that all stays and injunctions, including the automatic stays imposed

1 by U.S. Bankruptcy Code 362(a) are hereby vacated as to Movant with respect to that certain real
2 property which is the subject of a Deed of Trust dated May 13, 2004 and recorded in the office of the San
3 Diego County Recorder wherein Bank of America, NA is the current beneficiary and Neil Wayne
4 Belonsky and Jacqueline Jane Belonsky have an interest in, further described as:

5 A CONDOMINIUM COMPRISED OF:

6 Interest 1:

7 An undivided one-twenty sixth (1/26th fractional interest as tenant in common in
8 and to:

9 Parcel 3 of Parcel Map No. 16196, in the City of San Diego, County of San Diego,
10 State of California, recorded in the Office of the County Recorder of San Diego
County on August 23, 1990.

11 Excepting therefrom the following:

12 All units shown upon the "Scripps Townhomes Phase VI" Condominium Plan
13 recorded in the Office of the County Recorder of San Diego County, California, on .
September 12, 1991 as File/Page No. 91-0468260 of Official Records

14 Interest 2:

15 Unit No. 107 as shown upon the Condominium Plan referred to above.

16 Interest 3:

17 The exclusive right to use, possession and occupancy of those portions of Parcel
18 1 described in Interest 1 designated as Exclusive Use Common Area P-, and/or
6-107, as the case may be, and E-107 on the Condominium Plan referred to
above"; which right is appurtenant to Interests 1 and 2 above described.

19 Interest 4:

20 A non-exclusive easement for ingress and egress on, over and under the
21 Common Area of Parcel 4 of said Parcel Map No. 16196, and Parcels 1, 2, 3 and
22 4 of Parcel Map No. 16515 and Lot 1 of said Map No. 12441, which easement is
appurtenant to Interests 1, 2 and 3 above described. Excepting therefrom any
residential buildings thereon and any portion thereof which may be designated as
Exclusive Use Common Area.

23 Interest 5:

24 A non-exclusive easement on and over that certain real property located in the
25 City of San Diego, County of San Diego, State of California, more particularly
26 described as Lot 2 of Map No. 12441, recorded in the Office of the County
Recorder of San Diego County on August 10, 1989; and Parcel of Parcel Map
No. 16196, recorded in the Office of the County Recorder of San Diego County on
August 23, 1990, for access, use occupancy, enjoyment, ingress and egress of
the amenities located thereon, subject to the terms and provisions of the
Declaration of Covenants, Conditions and Restrictions to which reference is
hereafter made. This easement is appurtenant to Interests 1 and 2 above

described. The easement is for the use of owners of Condominiums which are subject to the Declaration of Covenants, Conditions and Restrictions to which reference is hereinafter made, and is not for the use of the general public.

Interest 6:

Interest 6:

Non-exclusive easement for the purposes of ingress, egress, vehicular and pedestrian access as more particularly described as follows:

ACCESS EASEMENT

All that portion of Lot 1 of Scripps Midlands per Map No. 12441, filed in the Office of the County Recorder of San Diego County on August 10, 1989, and portions of Parcels 3 and 4 of Parcel Map No. 16196, filed in the Office of the County Recorder of San Diego County on August 23, 1990 as File/Page No. 90-462162 of Official Records, all in the City of San Diego, County of San Diego, State of California, more particularly described as follows:

Commencing at the most Southerly corner of Lot 1 of said Map No. 12441; thence along the Southeasterly line of said Lot 1, North 63°44'58" East, 80.69 feet to the True Point of Beginning; thence North 37°14'38" West, 83.36 feet to the beginning of a tangent 187.00 foot radius curve, concave Easterly; thence Northerly along the arc of said curve, through a central angle of 68°17'42", a distance of 222.90 feet; thence North 31°03'04" East, 126.00 feet to the beginning of a tangent 213.00 foot radius curve, concave Westerly; thence Northerly along the arc of said curve, through a central angle of 50°18'45" a distance of 187.04 feet; thence North 19°15'41" West, 345.49 feet; to the beginning of a tangent 28.00 foot radius curve, concave Easterly; thence Northerly and Easterly along the arc of said curve, through a central angle of 102°08'11" a distance of 49.91 feet; thence North 82°52'30" East, 49.02 feet to the beginning of a tangent 40.00 foot radius curve, concave Northerly; thence Northeasterly and Northerly along the arc of said curve, through a central angle of 62°08'15" a distance of 43.38 feet to the Southerly line of lot 5 of said map No. 12441; thence along said Southerly line North 77°20'51" West, 21.96 feet to a point on the arc of a non-tangent 28.00 foot radius curve, concave Northerly the center of which bears North 53°39'00" West; thence Westerly along the arc of said curve, through a central angle of 118°03'02", a distance of 57.69 feet to the Southerly line of said Lot 5; thence along said Southerly line South 78°27'57" West, 25.64 feet; thence South 56°45'14" West, 4.74 feet to the beginning of a tangent 5.00 foot radius curve, concave Northerly; thence Westerly along the arc of said curve, through a central angle of 142°11'22" a distance of 12.41 feet; thence North 33°12'03" West, 4.95 feet to the Southerly line of said Lot 5;

thence along) said Southerly line, South 78°27'57" West, 36.74 feet; thence. South 4°29'24" West, 9.22 feet; thence South 40°28'11" East, 15.17 feet; thence North 49°39'49" East, 14.19 feet to the beginning of a tangent 3.00 foot radius curve, concave Southerly; thence Easterly along said curve through a central angle of 84°29'32" a distance of 4.42 feet to the beginning of a compound 5.00 foot radius curve, concave Westerly; thence Southerly along the arc of said curve, through a central angle of 86°37'15" a distance of 7.56 feet to the beginning of a tangent 54.00 foot radius reverse curve concave Easterly; thence Southerly along the arc of said curve, through a central angle of 27°22'38" a distance of 25.80 feet to the beginning of a tangent 10.00 foot

radius reverse curve concave Northwesterly; thence Southerly along the arc of said curve, through a central angle of 87°57'33" a distance of 15.35 feet to the beginning of a compound 3.00 foot radius curve, concave Northeasterly; thence Westerly and Northerly along said curve through a central angle of 88°14'16" a distance of 4.62 feet; thence North 9°27'47" East, 14.50 feet; thence North 80°32'13" West, 3,46 feet to the Lot Line of Lot 5; thence along said line South 4°29'24" West, 49,42 feet to a point on the arc of a non-tangent 150.00 radius curve concave Northerly the center of which bears North 3°00'34" East; thence Easterly along the arc of said curve, through a central angle of 4°21'12" a distance of 11.40 feet to the beginning of a 10.00 foot radius reverse curve concave Southerly; thence Southerly along the arc of said curve, through a central angle of 72°04'57" a distance of 12.58 feet; thence South 19°15'41" East, 341.22 feet to the beginning of a tangent 187.00 foot radius curve, concave Westerly; thence Southerly along the arc of said curve, through a central angle of 50°18'45" a distance of 164.21 feet; thence South 31°03'04" West, 122.90 feet to the beginning of a 28.00 foot radius curve, concave Northwesterly; thence Westerly along the arc of said curve, through a central angle of 67°32'15" a distance of 33.00 feet; thence North 81°24'41" West, 46,49 feet to a point on the arc of a non-tangent 45.00 foot radius curve, concave Westerly the center of which bears South 88°21'06" West, said point being on the Easterly right of way of Scripps Vista Way as shown on said Map No. 12441; thence Southerly along the arc of said curve, through a central angle of 61°07'34" a distance of 48.00 feet; thence South 50°00'00" East 50.01 feet to the beginning of a tangent 75.00 foot radius curve, concave Southwesterly; thence Southerly along the arc of said curve, through a central angle of 45°20'01" a distance of 59.34 feet to the beginning of a tangent 213.00 foot radius reverse curve concave Easterly thence Southerly along the arc of said curve, through a central angle of 32°34'38" a distance of 121.11 feet; thence South 37°14'38" East, 78.31 feet to the Southwesterly line of Lot 1 of said Map No. 12441; thence along said Southerly line North 63°44'58" East, 26,49 feet to the True Point of Beginning.

26.00 FOOT ACCESS EASEMENT

All that portion of Parcel 2 of Parcel Map No. 16196, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, August 23, 1990 as File/Page No. 90-462162 of

Official Recgrds, being a 26.00 foot strip of land lying 13.00 feet each side of the centerline described as follows:

Beginning at the Southwesterly corner of said Parcel 2; thence South 81°24'40" East, 31.63 feet to the True Point of Beginning of said 26.00 foot strip of land; thence North 8°35'20" East, 173.97 feet to the beginning of a tangent 50.00 foot radius curve, concave Southeasterly; thence North 56°52'40" East, 51.22 feet to the beginning of a tangent 20.00 foot radius curve, concave Southeasterly; thence Northeasterly along said curve through a central angle of 10°06'26" a distance of 35.28 feet; thence North 66°59'06" East, 133.61 feet to a point in the Northeasterly line of said Parcel 2, distant thereon South 19°15'41" East, 176.16 feet from the most Northerly corner thereof.

The sidelines of said 26.00 foot strip of land shall be shortened or lengthened so as to terminate Northeasterly in said Northeasterly line of Parcel 2.

Note: The Declaration of Covenants, Conditions and Restrictions referred to above were recorded March 6, 1991 as File/Page No. 1991-0098527 of Official

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IT IS FURTHER ORDERED that this Order shall remain in effect in any bankruptcy chapter to which the Debtor may convert.

JUDGE OF THE U.S. BANKRUPTCY COURT